

The Honorable Barbara J. Rothstein

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WASHINGTON
AT TACOMA

WILLIAM T. WHITMAN, individually and on behalf of all others similarly situated,

Plaintiff,

vs.

STATE FARM LIFE INSURANCE COMPANY,

Defendant.

NO. 3:19-cv-06025-BJR
**PLAINTIFF’S BRIEF IN OPPOSITION
TO STATE FARM’S MOTION FOR
LEAVE TO FILE SUPPLEMENTAL
BRIEFING**

After obtaining an extended briefing period and enlargement of the page limits for the parties’ principal briefs on Plaintiff’s Motion for Class Certification (*see* Docs. 59, 61-64), State Farm now seeks leave to file an additional ten pages of briefing (Doc. 113) on Plaintiff’s motion to make arguments regarding a Ninth Circuit decision, *Olean Wholesale Grocery Coop., Inc. v. Bumble Bee Foods LLC*, ---F.3d---, 2021 WL 1257845 (9th Cir. Apr. 6, 2021), that issued after State Farm filed its opposition brief. Plaintiff respectfully opposes State Farm’s motion for leave because State Farm’s request is inconsistent with this Court’s Local Civil Rules on the procedure for alerting the Court to relevant authority issued after the date the party’s last brief was filed, which provides that “a party may bring to the court’s attention relevant authority issued after the

1 date the party's last brief was filed by serving and filing a Notice of Supplemental Authority that
 2 attaches the supplemental authority *without argument*." LCR 7(n) (emphasis added).

3 State Farm filed a Notice of Supplemental Authority alerting this Court to the *Olean*
 4 decision pursuant to this Local Rule, *see* Doc. 112. Yet, State Farm's motion for leave to file a
 5 supplemental brief to make arguments regarding *Olean*—in addition to providing its Notice of
 6 *Olean*—does not even reference this Local Rule, which explicitly does *not* permit argument
 7 regarding supplemental authority, or explain any justification for departing from this Rule to file
 8 ten pages of argument on *Olean*. For these reasons, Plaintiff respectfully requests that State Farm's
 9 Motion for Leave to File Supplemental Briefing regarding *Olean* be denied. Plaintiff further
 10 respectfully requests that if State Farm's motion is granted, that Plaintiff be permitted to respond
 11 to State Farm's supplemental briefing with a brief of the same number of pages as that provided
 12 to State Farm.

13 Dated: April 14, 2021

TOUSLEY BRAIN STEPHENS PLLC

14 By: s/ Kim D. Stephens

Kim D. Stephens, P.S. WSBA #11984

15 By: s/ Rebecca L. Solomon

16 Rebecca L. Solomon, WSBA #51520

17 1700 Seventh Avenue, Suite 2200

Seattle, Washington 98101

18 Tel: 206.682.5600/Fax: 206.682.2992

Email: kstephens@tousley.com

19 rsolomon@tousley.com

20 Norman E. Siegel (*admitted pro hac vice*)

siegel@stuevesiegel.com

21 Lindsay Todd Perkins (*admitted pro hac vice*)

perkins@stuevesiegel.com

22 Ethan Lange (*admitted pro hac vice*)

lange@stuevesiegel.com

23 STUEVE SIEGEL HANSON LLP

460 Nichols Road, Suite 200

Kansas City, Missouri 64112

Tel: 816-714-7100
Fax: 816-714-7101

John J. Schirger (*admitted pro hac vice*)
jschirger@millerschirger.com
Matthew W. Lytle (*admitted pro hac vice*)
mlytle@millerschirger.com
Joseph M. Feierabend (*admitted pro hac vice*)
jfeierabend@millerschirger.com
MILLER SCHIRGER, LLC
4520 Main Street, Suite 1570
Kansas City, Missouri 64111
Tel: 816-561-6500
Fax: 816-561-6501

Stephen R. Bassar (*admitted pro hac vice*)
sbassar@barrack.com
BARRACK, RODOS & BACINE
One America Plaza
600 West Broadway, Suite 900
San Diego, CA 92101
Tel: 619-230-0800
Fax: 619-230-1874

Joseph Gentile
joseph@sarrafgentile.com
Ronen Sarraf
ronen@sarrafgentile.com
SARRAF GENTILE LLP
14 Bond Street #212
Great Neck, NY 11021
Tel: 516-699-8890
Fax: 516-699-8968

Attorneys for Plaintiff, William T. Whitman
4853-2113-4053, v. 1